

HOUSE BILL NO. 632

INTRODUCED BY J. SINRUD

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE LEGISLATIVE AUDITOR, UPON APPROVAL OF AND PRIORITIZATION BY THE LEGISLATIVE AUDIT COMMITTEE, TO COMPLETE PERFORMANCE AUDITS OF SCHOOL DISTRICTS UPON REQUEST BY A MAJORITY VOTE OF THE LOCAL BOARD OF TRUSTEES OR THE BOARD OF PUBLIC EDUCATION OR UPON REQUEST BY THE SUPERINTENDENT OF PUBLIC INSTRUCTION; PROVIDING REQUIREMENTS FOR THE PERFORMANCE AUDITS; REQUIRING THE LEGISLATIVE AUDITOR TO REPORT RESULTS TO THE LEGISLATIVE AUDIT COMMITTEE; REQUIRING SCHOOL DISTRICTS TO SUBMIT A WRITTEN STATUS REPORT ON IMPLEMENTATION OF AUDIT FINDINGS AND RECOMMENDATIONS EVERY YEAR FOR 2 YEARS AFTER COMPLETION OF AN AUDIT; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 5-13-304, 20-2-121, 20-3-106, AND 20-9-213, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. School district performance audit -- request criteria -- approval and report to legislative audit committee -- audit status reports. (1) Prior to June 1 following each regularly scheduled legislative session, the board of public education, the board of trustees of a school district, or the superintendent of public instruction may request the legislative audit committee to direct the legislative auditor to complete a performance audit of a school district or a program impacting multiple school districts.

(2) A request for a performance audit under subsection (1) must:

(a) include specific identification of the problem or concern; and

(b) identify the source and amount of funding, if any, available for the requested audit.

(3) Upon request by the legislative auditor or the auditor's representative, the officers and employees of the school district shall make available any books, accounts, claims, reports, vouchers, or other records of information, regardless of its confidential status, form, or location, that the auditor considers necessary to conduct the audit.

(4) The performance audit of a school district may include but is not limited to issues relating to the effectiveness and efficiency of the operations of a school district, including:

- 1 (a) financial management;
- 2 (b) facilities management;
- 3 (c) personnel management;
- 4 (d) district organization;
- 5 (e) employee health plans;
- 6 (f) transportation;
- 7 (g) purchasing practices;
- 8 (h) training and development of management staff;
- 9 (i) establishment of benchmarks for productivity and performance; and
- 10 (j) examination of unusual or dramatic changes in specific budgetary line items.

11 (5) A school district that is subject to an audit under this section is entitled to receive a copy of the audit
12 findings and recommendations and shall notify the legislative auditor in writing as to whether the school district:

13 (a) agrees or disagrees with the findings and recommendations of the audit; and

14 (b) will implement the audit findings and recommendations, implement modifications to the audit
15 findings and recommendations, or refuse to implement the audit findings and recommendations.

16 (6) The school district's response to the legislative auditor's findings and recommendations must be
17 reported to the legislative audit committee and be made available to the public.

18 (7) For 2 years following completion of an audit under this section, the school district or districts shall
19 annually submit to the legislative auditor a written status report on the implementation of the audit findings and
20 recommendations.

21 (8) Following receipt of the school district's status report, the legislative auditor shall review the district's
22 progress toward implementing the findings and recommendations of the audit and may review beyond the 2-year
23 time period established in subsection (7) the district's progress on any recommendations that have not been
24 implemented by the district. The legislative auditor shall provide a status report of these reviews to the
25 legislative audit committee and allow the district to participate in any hearing before the committee during the
26 review period.

27
28 **Section 2.** Section 5-13-304, MCA, is amended to read:

29 **"5-13-304. Powers and duties.** The legislative auditor ~~shall~~:

30 (1) shall conduct a financial and compliance audit of every state agency every 2 years covering the

1 2-year period since the last audit, unless otherwise required by state law;

2 (2) except as provided in subsection (8), shall conduct a special audit whenever the legislative auditor
3 determines it necessary and shall so advise the members of the legislative audit committee;

4 (3) shall make a complete written report of each audit. A copy of each report must be furnished to the
5 department of administration, the state agency that was audited, each member of the committee, and the
6 legislative services division.

7 (4) shall report immediately in writing to the attorney general and the governor any apparent violation
8 of penal statutes disclosed by the audit of a state agency and furnish the attorney general with all information
9 available relative to the violation;

10 (5) shall report immediately in writing to the governor any instances of misfeasance, malfeasance, or
11 nonfeasance by a state officer or employee disclosed by the audit of a state agency;

12 (6) shall report immediately to the surety upon the bond of an official or employee when an audit
13 discloses a shortage in the accounts of the official or employee. Failure to notify the surety does not release the
14 surety from any obligation under the bond.

15 (7) ~~have the authority to~~ may audit records of organizations and individuals receiving grants from or on
16 behalf of the state to determine that the grants are administered in accordance with the grant terms and
17 conditions. Whenever a state agency enters into an agreement to grant resources under its control to others,
18 the agency shall obtain the written consent of the grantee to the audit provided for in this subsection.

19 (8) subject to approval of and prioritization by the legislative audit committee, shall conduct a
20 performance audit pursuant to [section 1] of a school district's issues or concerns identified for audit or conduct
21 a performance audit of a program that impacts multiple school districts."

22
23 **Section 3.** Section 20-2-121, MCA, is amended to read:

24 **"20-2-121. Board of public education -- powers and duties.** The board of public education shall:

25 (1) effect an orderly and uniform system for teacher certification and specialist certification and for the
26 issuance of an emergency authorization of employment by adopting the policies prescribed by 20-4-102 and
27 20-4-111;

28 (2) consider the suspension or revocation of teacher or specialist certificates and appeals from the denial
29 of teacher or specialist certification in accordance with the provisions of 20-4-110;

30 (3) administer and order the distribution of BASE aid in accordance with the provisions of 20-9-344;

(4) adopt and enforce policies to provide uniform standards and regulations for the design, construction, and operation of school buses in accordance with the provisions of 20-10-111;

(5) approve or disapprove a reduction of the number of hours in a district's school day in accordance with the provisions of 20-1-302;

(6) adopt policies prescribing the conditions when school may be conducted on Saturday and the types of pupil-instruction-related days and approval procedure for such days in accordance with the provisions of 20-1-303 and 20-1-304;

(7) adopt standards of accreditation and establish the accreditation status of every school in accordance with the provisions of 20-7-101 and 20-7-102;

(8) approve or disapprove educational media selected by the superintendent of public instruction for the educational media library in accordance with the provisions of 20-7-201;

(9) adopt policies for the conduct of special education in accordance with the provisions of 20-7-402;

(10) adopt rules for issuance of documents certifying equivalency of completion of secondary education in accordance with 20-7-131;

(11) adopt policies for the conduct of programs for gifted and talented children in accordance with the provisions of 20-7-903 and 20-7-904;

(12) adopt rules for student assessment in the public schools; ~~and~~

(13) upon a majority vote and in coordination with the superintendent of public instruction, request the legislative audit committee to approve and prioritize a performance audit pursuant to [section 1] of a program that impacts multiple school districts; and

~~(13)~~(14) perform any other duty prescribed from time to time by this title or any other act of the legislature."

Section 4. Section 20-3-106, MCA, is amended to read:

"20-3-106. Supervision of schools -- powers and duties. The superintendent of public instruction has the general supervision of the public schools and districts of the state and shall perform the following duties or acts in implementing and enforcing the provisions of this title:

(1) resolve any controversy resulting from the proration of costs by a joint board of trustees under the provisions of 20-3-362;

(2) issue, renew, or deny teacher certification and emergency authorizations of employment;

1 (3) negotiate reciprocal tuition agreements with other states in accordance with the provisions of
2 20-5-314;

3 (4) approve or disapprove the opening or reopening of a school in accordance with the provisions of
4 20-6-502, 20-6-503, 20-6-504, or 20-6-505;

5 (5) approve or disapprove school isolation within the limitations prescribed by 20-9-302;

6 (6) generally supervise the school budgeting procedures prescribed by law in accordance with the
7 provisions of 20-9-102 and prescribe the school budget format in accordance with the provisions of 20-9-103
8 and 20-9-506;

9 (7) establish a system of communication for calculating joint district revenue in accordance with the
10 provisions of 20-9-151;

11 (8) approve or disapprove the adoption of a district's budget amendment resolution under the conditions
12 prescribed in 20-9-163 and adopt rules for an application for additional direct state aid for a budget amendment
13 in accordance with the approval and disbursement provisions of 20-9-166;

14 (9) generally supervise the school financial administration provisions as prescribed by 20-9-201(2);

15 (10) prescribe and furnish the annual report forms to enable the districts to report to the county
16 superintendent in accordance with the provisions of 20-9-213(6) and the annual report forms to enable the
17 county superintendents to report to the superintendent of public instruction in accordance with the provisions
18 of 20-3-209;

19 (11) approve, disapprove, or adjust an increase of the average number belonging (ANB) in accordance
20 with the provisions of 20-9-313 and 20-9-314;

21 (12) distribute BASE aid and special education allowable cost payments in support of the BASE funding
22 program in accordance with the provisions of 20-9-331, 20-9-333, 20-9-342, 20-9-346, 20-9-347, and 20-9-366
23 through 20-9-369;

24 (13) provide for the uniform and equal provision of transportation by performing the duties prescribed
25 by the provisions of 20-10-112;

26 (14) request, accept, deposit, and expend federal money in accordance with the provisions of 20-9-603;

27 (15) authorize the use of federal money for the support of an interlocal cooperative agreement in
28 accordance with the provisions of 20-9-703 and 20-9-704;

29 (16) prescribe the form and contents of and approve or disapprove interstate contracts in accordance
30 with the provisions of 20-9-705;

(17) recommend standards of accreditation for all schools to the board of public education and evaluate compliance with the standards and recommend accreditation status of every school to the board of public education in accordance with the provisions of 20-7-101 and 20-7-102;

(18) collect and maintain a file of curriculum guides and assist schools with instructional programs in accordance with the provisions of 20-7-113 and 20-7-114;

(19) establish and maintain a library of visual, aural, and other educational media in accordance with the provisions of 20-7-201;

(20) license textbook dealers and initiate prosecution of textbook dealers violating the law in accordance with the provisions of the textbooks part of this title;

(21) as the governing agent and executive officer of the state of Montana for K-12 career and vocational/technical education, adopt the policies prescribed by and in accordance with the provisions of 20-7-301;

(22) supervise and coordinate the conduct of special education in the state in accordance with the provisions of 20-7-403;

(23) administer the traffic education program in accordance with the provisions of 20-7-502;

(24) administer the school food services program in accordance with the provisions of 20-10-201 through 20-10-203;

(25) review school building plans and specifications in accordance with the provisions of 20-6-622;

(26) provide schools with information and technical assistance for compliance with the student assessment rules provided for in 20-2-121 and collect and summarize the results of the student assessment for the board of public education and the legislature;

(27) upon request and in compliance with confidentiality requirements of state and federal law, disclose to interested parties all school district student assessment data for a test required by the board of public education;

(28) administer the distribution of guaranteed tax base aid in accordance with 20-9-366 through 20-9-369; and

(29) in coordination with the board of public education, request the legislative audit committee to approve and prioritize a performance audit pursuant to [section 1] of a program that impacts multiple school districts; and

~~(29)~~(30) perform any other duty prescribed from time to time by this title, any other act of the legislature,

1 or the policies of the board of public education."

2
3 **Section 5.** Section 20-9-213, MCA, is amended to read:

4 **"20-9-213. Duties of trustees.** The trustees of each district have the authority to transact all fiscal
5 business and execute all contracts in the name of the district. A person other than the trustees acting as a
6 governing board may not expend money of the district. In conducting the fiscal business of the district, the
7 trustees shall:

8 (1) cause the keeping of an accurate, detailed accounting of all receipts and expenditures of school
9 money for each fund and account maintained by the district in accordance with generally accepted accounting
10 principles and the rules prescribed by the superintendent of public instruction. The record of the accounting must
11 be open to public inspection at any meeting of the trustees.

12 (2) authorize all expenditures of district money and cause warrants or checks, as applicable, to be
13 issued for the payment of lawful obligations;

14 (3) issue warrants or checks, as applicable, on any budgeted fund in anticipation of budgeted revenue,
15 except that the expenditures may not exceed the amount budgeted for the fund;

16 (4) invest any money of the district, whenever in the judgment of the trustees the investment would be
17 advantageous to the district, either by directing the county treasurer to invest any money of the district or by
18 directly investing the money of the district in eligible securities, as identified in 7-6-202, in savings or time
19 deposits in a state or national bank, building or loan association, savings and loan association, or credit union
20 insured by the FDIC or NCUA located in the state, or in a repurchase agreement that meets the criteria provided
21 for in 7-6-213. All interest collected on the deposits or investments must be credited to the fund from which the
22 money was withdrawn, except that interest earned on account of the investment of money realized from the sale
23 of bonds must be credited to the debt service fund or the building fund, at the discretion of the board of trustees.
24 The placement of the investment by the county treasurer is not subject to ratable distribution laws and must be
25 done in accordance with the directive from the board of trustees. A district may invest money under the state
26 unified investment program established in Title 17, chapter 6, or in a unified investment program with the county
27 treasurer, with other school districts, or with any other political subdivision if the unified investment program is
28 limited to investments that meet the requirements of this subsection (4), including those investments authorized
29 by the board of investments under Title 17, chapter 6. A school district that enters into a unified investment
30 program with another school district or political subdivision other than the state shall do so under the auspices

1 of and by complying with the provisions governing interlocal cooperative agreements authorized under Title 7,
2 chapter 11, and educational cooperative agreements authorized under Title 20, chapter 9, part 7. A school
3 district either shall contract for investment services with any company complying with the provisions of Title 30,
4 chapter 10, or shall contract with the state board of investments for investment services.

5 (5) cause the district to record each transaction in the appropriate account before the accounts are
6 closed at the end of the fiscal year in order to properly report the receipt, use, and disposition of all money and
7 property for which the district is accountable;

8 (6) report annually to the county superintendent, not later than August 15, the financial activities of each
9 fund maintained by the district during the last-completed school fiscal year, on the forms prescribed and
10 furnished by the superintendent of public instruction. Annual fiscal reports for joint school districts must be
11 submitted not later than September 1 to the county superintendent of each county in which part of the joint
12 district is situated.

13 (7) whenever requested, report any other fiscal activities to the county superintendent, superintendent
14 of public instruction, or board of public education;

15 (8) cause the accounting records of the district to be audited as required by 2-7-503 and, upon a
16 majority vote, shall request an audit pursuant to [section 1]; and

17 (9) perform, in the manner permitted by law, other fiscal duties that are in the best interests of the
18 district."

19
20 **NEW SECTION. Section 6. Appropriation.** There is appropriated from the general fund to the
21 legislative audit division \$330,000 for the biennium ending June 30, 2007, to fund the audits of school districts
22 required pursuant to [section 1].

23
24 **NEW SECTION. Section 7. Codification instruction.** [Section 1] is intended to be codified as an
25 integral part of Title 20, chapter 9, part 2, and the provisions of Title 20, chapter 9, part 2, apply to [section 1].

26
27 **NEW SECTION. Section 8. Effective date.** [This act] is effective on passage and approval.

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